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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

SANDI ARSENAULT VENABLES,

Defendant and Appellant.

B207084

(Los Angeles County  
Super. Ct. No. MA037906)

APPEAL from a judgment of Superior Court of Los Angeles County, John Murphy, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Lenore De Vita, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Kenneth C. Byrne and Blythe J. Leszkay, Deputy Attorneys General, for Plaintiff and Respondent.

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## **INTRODUCTION**

Defendant Sandi Arsenault Venables was convicted by jury of numerous theft-related offenses. Her sole contention on appeal is the trial court committed prejudicial error by instructing the jury with Judicial Council of California Criminal Jury Instructions CALCRIM No. 300. We find no instructional error and affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On March 5, 2007, using counterfeit traveler's checks, defendant purchased over \$2,000 in merchandise from Sears department store, and an \$80 lunch from Applebee's restaurant. A warrant search of defendant's residence yielded several firearms and live ammunition, as well as the Sears merchandise.<sup>1</sup>

A consolidated amended information filed on May 3, 2007, charged defendant with 10 counts: (1) second degree commercial burglary (Sears); (2) grand theft of personal property (washer and dryer); (3) forgery; (4) grand theft of personal property (cash and shoes); (5) petty theft with a prior theft-related conviction; (6) forgery; (7) possession of a firearm by a felon; (8) second degree commercial burglary (Applebee's); (9) forgery; and (10) grand theft of personal property (cash).

Jury trial commenced on February 19, 2008. Among the jury instructions the court gave was CALCRIM No. 300: "Neither side is required to call all witnesses who may have information about the case or to produce all physical evidence that might be relevant." Prior to deliberations, the trial court dismissed count 5 in furtherance of justice. The jury convicted defendant of the remaining nine counts on February 29, 2008. The trial court sentenced defendant to an aggregate state prison term of five years.

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<sup>1</sup> The evidence underlying defendant's convictions is not relevant to this appeal.

## DISCUSSION

Defendant contends by instructing the jury the defense need not produce “all” relevant evidence, CALCRIM No. 300 improperly suggests the defense has an obligation to produce “some” evidence, the result of which improperly shifts the burden of proof from the prosecution to the defense.<sup>2</sup> Defendant maintains this is particularly true in light of her uncorroborated testimony the traveler’s checks were a gift and she believed them to be genuine, and the prosecutor’s closing argument challenging defendant’s failure to produce evidence corroborating her testimony. However, as defendant acknowledges, appellate courts have confronted this same challenge to CALCRIM No. 300, which they have consistently rejected following careful analysis.<sup>3</sup> (*People v. Ibarra* (2007) 156 Cal.App.4th 1174, 1189-1190; *People v. Anderson* (2007) 152 Cal.App.4th 919, 937-938; cf. *People v. Felix* (2008) 160 Cal.App.4th 849, 858-859.)

Finding those cases dispositive of the issue defendant raises, we adopt their analysis. We similarly conclude that on this record, it is not reasonably probable the jury would have interpreted CALCRIM No. 300 as placing a burden of producing evidence on defendant given the other instructions presented on the prosecution’s burden of proof beyond a reasonable doubt. (*Ibarra, supra*, 156 Cal.App.4th at p. 1190; *Anderson, supra*, 152 Cal.App.4th at p. 938.) We presume “that jurors are able to correlate, follow, and understand the court’s instructions.” (*Ibarra*, at p. 1190.)

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<sup>2</sup> The People assert this contention is forfeited due to defendant’s failure to object and request a modification or clarification in the trial court. However, a defendant need not object to preserve a claim of instructional error where, as here, the error purportedly affects the defendant’s “substantial rights.” (Pen. Code, § 1259.) “[T]he cases equate ‘substantial rights’ with reversible error’ under the test stated in *People v. Watson* (1956) 46 Cal.2d 818 . . . . [Citation.]” (*People v. Felix, supra*, 160 Cal.App.4th at p. 857.)

<sup>3</sup> According to defendant, she is making this claim to preserve it for California Supreme Court and federal court review.

**DISPOSITION**

The judgment is affirmed.

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JACKSON, J.

We concur:

PERLUSS, P. J.

ZELON, J.